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JAMES E. JOHNSON
Corporation Counsel

**THE CITY OF NEW YORK
LAW DEPARTMENT**

100 CHURCH STREET
NEW YORK, NY 10007

INNA SHAPOVALOVA
Assistant Corporation Counsel
Phone: (212) 356-2656
Fax: (212) 356-3509
Email: inshapov@law.nyc.gov

January 7, 2021

BY ECF

Honorable Mary Kay Vyskocil
United States District Judge
United States District Court
Southern District of New York
40 Foley Square
New York, New York 10007

Re: Juan Villafane, Jr. v. City of New York, et al.
20 CV 7357 (MKV)

Your Honor:

I am an Assistant Corporation Counsel in the Office of James E. Johnson, Corporation Counsel of the City of New York, and the attorney assigned to represent defendant the City of New York ("City") in the above-referenced matter. Defendant City writes to respectfully request an adjournment, *sine die*, of the Initial Conference currently scheduled for February 2, 2021 and the deadline to submit a Proposed Case Management Plan and Scheduling Order and joint letter currently due one week prior to the Initial Conference scheduled for February 2, 2021 as outlined in the Court's Order dated December 18, 2020. This is the first request for an adjournment of the Initial Conference. Plaintiff's counsel, Gary S. Fish, consents to this request.

By way of background, plaintiff bring this action, pursuant to 42 U.S.C. § 1983, alleging, *inter alia*, false arrest, excessive force, malicious prosecution, and a New York State law battery claim arising from his arrest on or about January 16, 2020. Plaintiff names the City of New York, the New York City Police Department, John Does # 1-7, and Richard Roes #1-8 as defendants in this action. Defendant City was served with the Complaint, a N.Y. C.P.L. § 160.50 release, and a medical release on September 29, 2020. Defendant City, with the consent of plaintiff's counsel, wrote to the Court on December 11, 2020 requesting for this case to be formally designated to proceed pursuant Local Civil Rule 83.10 ("the § 1983 Plan"). Your Honor granted defendant City's request and requested that the Clerk of Court designate this case to proceed pursuant to the § 1983 Plan as set forth in Local Civil Rule 83.10. (ECF No. 11). Pursuant to the § 1983 Plan defendant City filed its Answer to plaintiff's Complaint on December 18, 2020. On

December 18, 2020 the Court scheduled an Initial Conference to be held on February 2, 2021. (ECF No. 13)

Under the terms of the § 1983 Plan, the parties are to have their Rule 26(f) conference within 14 days after the first defendant files its answer, initial disclosures should be exchanged within 21 days after the first defendant files its answer, and specific documents are to be exchanged between the parties within 28 days after the first defendant files its answer. (*See* S.D.N.Y. Local Civ. R. 83.10 §§ 4-5.) All other discovery is stayed, as the parties are then directed to engage in settlement discussions and either have a settlement conference with a Magistrate Judge or a mediation session with a Southern District mediator. (*See* S.D.N.Y. Local Civ. R. 83.10 §§ 5-8.) Accordingly, defendant City respectfully submits that an Initial Conference at this stage is not necessary, as a limited discovery schedule has already been set forth in the Section 1983 Plan, and all other discovery is stayed pending a settlement conference or mediation session.

Based on the foregoing, defendant City respectfully requests that the Initial Conference as well as the deadline to submit a Proposed Case Management Plan and Scheduling Order and joint letter be adjourned *sine die*, until sometime after the parties have completed limited discovery and mediation under Local Civil Rule 83.10.

Thank you for your consideration herein.

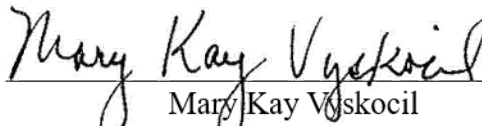
Respectfully submitted,

/s/ Inna Shapovalova
Inna Shapovalova
Assistant Corporation Counsel

cc: **BY ECF**
Gary S. Fish, Esq.
Attorney for Plaintiff

The parties' request to adjourn *sine die* the Initial Pretrial Conference scheduled for February 2, 2021, and the deadline to submit a joint letter and the Proposed Case Management Plan and Scheduling Order is GRANTED. The parties shall file a joint letter within five days of mediation advising the Court of the status (not substance) of settlement discussions—whether mediation was successful, whether discussions are ongoing, etc.—and, if necessary, requesting that the Court reschedule the Initial Pretrial Conference. *See* S.D.N.Y. Local Civ. R. 83.10 § 10. SO ORDERED.

Date: 1/8/2021
New York, New York


Mary Kay Vyskocil
United States District Judge